

ORDINANCE NO. 205

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF MOUNT CARMEL, TENNESSEE.

WHEREAS the Board of Mayor and Aldermen of the Town of Mount Carmel, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Mount Carmel Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF MOUNT CARMEL, TENNESSEE, as follows:

SECTION I. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Mount Carmel Municipal Code," hereinafter referred to as the "Municipal Code" and to be cited as "MCMC § ____."

SECTION II. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the Municipal Code are hereby repealed from and after the effective date of said code, except as hereinafter provided.

SECTION III. Ordinances saved from repeal. The repeal provided for in the preceding section of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the Municipal Code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any contract or obligation assumed by or in favor of said city; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; nor shall such repeal affect continuing validity of the city's zoning ordinances or any ordinance annexing territory to the city.

SECTION IV. Continuation of existing provisions. Insofar as the provisions of the Municipal Code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

SECTION V. Penalty clause. Wherever in the Municipal Code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the Municipal Code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the Municipal Code shall be punishable by a penalty as prescribed by the governing body by separate resolution; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the Municipal Code or other applicable law.

When any person is fined for violating any provision of the Municipal Code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty. Each day any violation of the Municipal Code continues shall constitute a separate offense.

SECTION VI. Code as evidence. Any printed copy of the Municipal Code certified under the signature of the Recorder, Nancy Carter, shall be held to be a true and correct copy of such codification and may be read in evidence in any court without further proof of the provisions contained therein.

SECTION VII. Severability clause. Each section, subsection, paragraph, sentence, and clause of the Municipal Code including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the Municipal Code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

SECTION VIII. Reproduction and amendment of code. The Municipal Code shall be reproduced in loose-leaf form. The City Recorder shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the Municipal Code and revisions thereto. After adoption of the Municipal Code, each general ordinance shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the Municipal Code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the Municipal Code will contain references to all ordinances responsible for current provisions. One copy of the Municipal Code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

SECTION IX. Construction of conflicting provisions. Where any provision of the Municipal Code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

SECTION X. Code available for public use. A copy of the Municipal Code shall be kept available in the Recorder's office for public use and inspection at all reasonable times.

NOTICE OF PUBLIC HEARING PUBLISHED ON: Kingsport Times News
NAME OF PUBLICATION: 08-06-99
PUBLIC HEARING HELD ON: 08-26-99

FIRST READING	AYES	NAYS	OTHER
WAYNE ALLEY			
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
JAMES DEAN, MAYOR			
GARY LAWSON			abstain
THOMAS WHEELER	✓		
CARL WOLFE	✓		
TOTALS			

PASSED FIRST READING: 7-22-99

SECOND READING	AYES	NAYS	OTHER
WAYNE ALLEY	✓		
HENRY BAILEY	✓		
EUGENE CHRISTIAN	✓		
JAMES DEAN, MAYOR	✓		
GARY LAWSON		✓	
THOMAS WHEELER	✓		
CARL WOLFE	✓		
TOTALS			

PASSED SECOND READING: 8-26-99

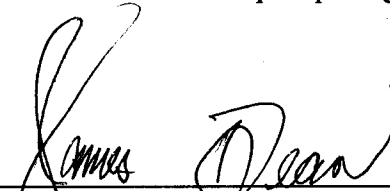
PUBLISHED ON:	
DATE:	<u>8-31-99</u>
NEWSPAPER:	<u>Kpt. Times</u>

SECTION XI. LEGAL STATUS PROVISIONS.

A. Conflict With Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the Town of Mount Carmel, the most restrictive shall in all cases apply.

B. Validity. If any section, clause, provision or portion of this ordinance shall be held to be in doubt or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

C. Effective Date. This ordinance shall become effective upon passage, the public welfare requiring it.



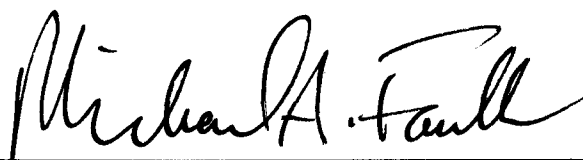
JAMES DEAN, Mayor

ATTEST:



NANCY CARTER, Recorder

APPROVED AS TO FORM:



LAW OFFICE OF MICHAEL A. FAULK

LAW OFFICE OF MICHAEL A. FAULK

*Certified Civil Trial Specialist by National Board of Trial Advocacy & Tennessee Commission on Continuing Education & Specialization

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May 24, 2000

Ms. Nancy Carter
City Recorder
Town of Mount Carmel
100 East Main Street
P. O. Box 1421
Mount Carmel, Tennessee 37645

RE: Enforcement of Town Code provisions against railroads

Dear Nancy:

Tennessee Code Annotated 7-51-801 says the Town "shall" file with the Commissioner of the State of Tennessee Department of Transportation a certified copy of the Mt. Carmel Code – which in part affects the operation of trains within the city limits. In order to insure that the Town of Mt. Carmel is in compliance with this section, please be sure that the Commissioner of Transportation receives a **certified copy** of the adopting ordinance No. 205 and the Code Book itself.

Upon receipt of copies, the Commissioner of Transportation must within seven (7) days cause to be mailed copies thereof to the registered agent of each railroad operating trains. A copy of the Commissioner's letter should be sent to the Mayor so you'll know it has been sent. See Tennessee Code Annotated 7-51-802.

None of our code provisions affecting trains will take effect until fifteen (15) days after the railroad has been notified. See Tennessee Code Annotated 7-51-804.

If you have any questions, or need further information, please do not hesitate to call me.
Thank you for your kind attention in this regard

Sincerely,
THE LAW OFFICES OF MICHAEL A. FAULK



Michael A. Faulk

MAF:kne
Enclosures

TENNESSEE CODE ANNOTATED
TITLE 7 CONSOLIDATED GOVERNMENTS-- GOVERNMENTAL AND PROPRIETARY FUNCTIONS
LOCAL GOVERNMENT FUNCTIONS
CHAPTER 51 MISCELLANEOUS GOVERNMENTAL AND PROPRIETARY FUNCTIONS
Part 8-- Ordinances Affecting Railroad Operations

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Current through End of 1999 Reg. Sess.

7-51-804 Effective date of ordinances.

(a) No ordinance required to be filed with the commissioner of transportation shall be effective as to the operation of any train until fifteen (15) days after the service of a copy of such ordinance upon the registered agent of the railroad operating such train.

(b) As to any railroad failing to furnish to the commissioner the name and address of its registered agent for service of process, any ordinance affecting the operation of the trains of such railroad shall become effective upon receipt of the certified copy thereof by the commissioner.

[Acts 1983, ch. 54, § 5; 1995, ch. 305, §§ 77, 78.]

T.C.A. § 7-51-804

TN ST § 7-51-804

END OF DOCUMENT

TENNESSEE CODE ANNOTATED
TITLE 7 CONSOLIDATED GOVERNMENTS-- GOVERNMENTAL AND PROPRIETARY FUNCTIONS
LOCAL GOVERNMENT FUNCTIONS
CHAPTER 51 MISCELLANEOUS GOVERNMENTAL AND PROPRIETARY FUNCTIONS
Part 8-- Ordinances Affecting Railroad Operations

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7-51-801 Filing with commissioner of transportation.

All incorporated cities and towns, as well as any areas adopting a metropolitan government within the state of Tennessee, shall file with the commissioner of transportation certified copies of all ordinances adopted by the governing body of such city, town or metropolitan government after July 1, 1983, which shall affect the operation of trains within the limits, or newly extended limits, when any such ordinances enlarge the municipal boundaries of such city, town or metropolitan government.

[Acts 1983, ch. 54, § 2; 1995, ch. 305, § 77.]

Law Reviews. Selected Tennessee Legislation of 1983 (N. L. Resener, J. A. Whitson, K. J. Miller), 50 Tenn. L. Rev. 785 (1983).

Attorney General Opinions. Transfer of railroad authority to department of transportation, OAG 97-026 (3/31/97).

T.C.A. § 7-51-801

TN ST § 7-51-801

END OF DOCUMENT

old. re-codifying
MTC code
she'll need to
send copy of
entire code book
too.

TENNESSEE CODE ANNOTATED
TITLE 7 CONSOLIDATED GOVERNMENTS-- GOVERNMENTAL AND PROPRIETARY FUNCTIONS
LOCAL GOVERNMENT FUNCTIONS
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7-51-802 Service of ordinances on railroads.

Upon receipt of copies of all such ordinances, the commissioner of transportation shall within seven (7) days cause to be mailed copies thereof to the registered agent for service of process for each railroad operating trains within the state. A copy of the letter transmitting any such ordinance to the various railroads shall be furnished to the chief executive officer of the city, town or metropolitan government adopting such ordinance in question as proof of compliance with the provisions of this part.

[Acts 1983, ch. 54, § 3; 1995, ch. 305, § 77.]

T.C.A. § 7-51-802

TN ST § 7-51-802

END OF DOCUMENT

TENNESSEE CODE ANNOTATED
TITLE 7 CONSOLIDATED GOVERNMENTS-- GOVERNMENTAL AND PROPRIETARY FUNCTIONS
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Current through End of 1999 Reg. Sess.

7-51-803 Railroad's agent for service of process.

Every railroad operating trains within the state shall notify the commissioner of transportation of the name and address of its registered agent for service of process.

[Acts 1983, ch. 54, § 4; 1995, ch. 305, § 77.]

T.C.A. § 7-51-803

TN ST § 7-51-803

END OF DOCUMENT

Town of Mt. Carmel

Town of Mt. Carmel
PO Box 1421
Mt. Carmel, TN 37645

Phone: 423 357-7311

Wednesday, July 12, 2000

J. Bruce Saltsman, Sr.
Commissioner of the State of Tennessee
Department of Transportation
700 James K. Polk Building
Nashville, TN 37243-3049

Dear Commissioner Saltsman:

Enclosed is a certified copy of the Mt. Carmel Code, which in part affects the operation of trains within the city limits of Mt. Carmel. The registered agent of each railroad operating train will need to be mailed a copy.

If you have any questions, please call (423)357-7311.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Carter", with a long horizontal flourish extending to the right.

Nancy Carter, City Recorder

nc